

REMARKS

This is a full and timely response to the Office Action mailed April 5, 2005.

By this Amendment, claims 1 and 14 have been amended to effect the changes requested by the Examiner and to more particularly define the present invention. Support for the claim amendments can be found throughout the specification and the original claims. Thus, claims 1-19 are currently pending for the Examiner's consideration.

In view of this amendment, Applicants believe that all pending claims are in condition for allowance. Reexamination and reconsideration in light of the above amendments and the following remarks are respectfully requested.

Rejection under 35 U.S.C. §112

Claim 1 is rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully traverses this rejection.

However, to expedite the allowance of the present application, Applicant has amended claim 1 to address the Examiner's concerns. Specifically, Applicant has amended claim 1 to recite "*a tank connected to said receiving member for receiving and containing the substances dissolved in the sprayed water*" as per the Examiner's suggestion.

Thus, withdrawal of this rejection is respectfully requested.

Rejections under 35 U.S.C. §102 and §103

Claim 14 is rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Gacki et al. (U.S. Patent 4,197,942). Further, claims 15-17 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Gacki et al. (U.S. Patent 4,197,942) in view of Bernstein et al. (U.S. Patent 5,366,114). Lastly, claim 18 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Gacki et al. (U.S. Patent 4,197,942) in view of Bernstein et al. (U.S. Patent 5,366,114) and further in view of Taylor (U.S. Patent 3,581,605). Applicant respectfully traverses these rejections.

To constitute anticipation of the claimed invention, the cited reference must disclose each and every limitation of the claims. In addition, to establish a *prima facie* case of obviousness, the cited references, either alone or in combination, must teach or suggest the

invention as a whole, including all the limitations of the claims. Here, in this case, the cited references, either alone or in combination, fail to disclose the claim limitations

*“a cutter body substantially in the form of a hollow cylinder having an inclined end **provided with a top thereof which first contacts with the membrane;** a cutting edge provided along the inclined end; a slit extending from **the top of** the inclined end into the cutter body”*

According to the present invention, when the membrane is cut by the cutting edge having a slit as seen in illustration A) below (see page 9 of the response), the sealing film (membrane) is cut as shown in illustration B) below (see page 9). Consequently, a part of the circular cut trace of the sealing film *remains* during the cutting operation from the initial stage to the final stage of cutting. Therefore, the cut piece of the film does not detach from the original film. Instead, it remains on the container even when the powder medicament empties and is completely removed from the container. In addition, during the cutting operation, extra tension will not be exerted by the cutter, and thus, the film can be smoothly and cleanly cut.

The Examiner states that Gacki et al. suggests a cutter end and a longitudinal slit, for example, in Fig. 4b. However, the slit is provided at a location other than the tip end of the cutter. If the cover film is cut by such a cutter as disclosed in Gacki et al., the circular cut trace of the sealing film may be that shown in illustration C) below (see page 9). Therefore, the cut piece of the film may become completely detached from the original film. Otherwise, the circular cut trace of the sealing film may be opened with a final part thereof remaining to be connected to the uncut cover film.

Since the present invention relates to a medical apparatus, a detached circular cut trace of the sealing film mixed with the powder medicament is a serious problem. As mentioned above, the present invention solves the serious problem of Gacki et al. by having *a slit extending from **the top of** the inclined end into the cutter body* so that a part of the circular cut trace of the sealing film *remains* after the cutting operation. This, in turn, ensures that the cut piece of the film does not detach from the original film and mix with the powder medicament in the container.

Such a deficiency Gacki et al. is not cured by the teachings and suggestions of Bernstein et al. (U.S. Patent 5,366,114) and Taylor (U.S. Patent 3,581,605). Bernstein et al. and Taylor only teach cutters with a serrated edge and do not teach or suggest at all *“a cutter body substantially in the form of a hollow cylinder having an inclined end **provided with a top thereof**”*

which first contacts with the membrane” and “a slit extending from the top of the inclined end into the cutter body”.

ILLUSTRATION SHEET

ILLUSTRATION A)

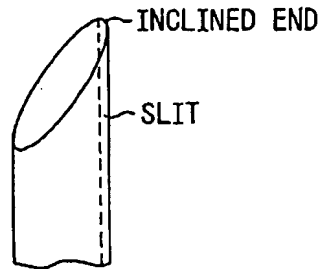
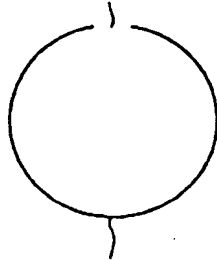


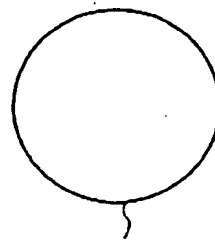
ILLUSTRATION B)

THIS PORTION
REMAINS BY SLIT



EXTRA TENSION WILL NOT
BE EXERTED BY THE CUTTER
DURING CUTTING OPERATION
AND, THEREFORE, FILM CAN BE
SMOOTHLY AND CLEANLY CUT

ILLUSTRATION C)



THE COVER WILL BE
COMPLETELY BE
REMOVED OR OPENED


Therefore, Applicant believes that claim 14 and its dependent claims 15-18 should be patentable over the cited prior art references, since the object, structure and effects of the present invention as defined by claim 14 are different from those of the cited references.

CONCLUSION

For the foregoing reasons, all the claims now pending in the present application are believed to be clearly patentable over the outstanding rejections. Accordingly, favorable reconsideration of the claims in light of the above remarks is courteously solicited. If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the below-listed number.

Dated: July 1, 2005

Respectfully submitted,

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